II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 January 1982

accepting undertakings in connection with the anti-dumping proceeding concerning imports of fluid cracking catalysts originating in the United States of America and terminating that proceeding

(82/31/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Article 10 thereof,

After consultations within the Advisory Committee set up under that Regulation,

Whereas in November 1980 the Commission received a complaint lodged by the European Council of Chemical Manufacturers Federations (CEFIC) representing all the Community's production of fluid cracking catalysts; whereas the complaint contained evidence of the existence of dumping in respect of like products originating in the United States of America and of material injury resulting therefrom;

Whereas, since the said evidence was sufficient to justify initiating a proceeding, the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (2), the initiation of a proceeding concerning imports of such products originating in the United States of America and commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known to be concerned and the representatives of the United States of America;

Whereas the Commission gave the parties directly concerned the opportunity to make known their views in writing and to be heard orally; whereas the majority of the parties concerned have taken this opportunity;

Whereas in order to arrive at an assessment of the dumping margin and injury, the Commission sought and verified all information it deemed to be necessary and carried out inspections at the premises of the three major producers in the United States, the Davison Chemical Division of W. R. Grace and Co., Engelhard Minerals and Chemicals Division and the Filtrol Corporation which together account for all the American exports of fluid cracking catalysts to the Community and at the premises of the following importers, Grace GmbH and Grace Italiana SpA; whereas the Commission also carried out inspections at the premises of the Community manufacturers concerned, AKZO Chemie Nederland BV and Joseph Crossfield and Sons;

Whereas the Commission selected as the investigation period 1 January 1980 to 30 April 1981;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No C 29, 10. 2. 1981, p. 2 and OJ No C 136, 5. 6. 1981, p. 2.

Whereas, for the purpose of assessing dumping, the Commission based its determination of the normal value on the prices charged by each of the three major American producers on the domestic market during the investigation period;

Whereas, for the export sales of W. R. Grace and Co., the export prices were constructed on the basis of the prices at which the imported products were first resold to an independent buyer during the investigation period, since the exporter and the importers were associated; whereas, for the purpose of this construction, allowance was made for all costs incurred between importation and resale, including duties and taxes, and for a reasonable profit margin of 6·6 %;

Whereas, for other exports, the export prices were determined on the basis of the prices actually paid or payable for the products sold for export during the investigation period;

Whereas the comparisons were made on a transaction by transaction basis at the ex-factory level;

Whereas the Commission took account, where appropriate, of the differences affecting price comparability with respect to variable distribution and selling costs, royalties and payment conditions where claims in these areas could be satisfactorily demonstrated;

Whereas the comparisons showed, in the case of W. R. Grace and Co., weighted average dumping margins of 104·3 % in 1980 and 97·5 % in the first four months of 1981; whereas for Engelhard the comparisons showed a dumping margin of 1·6 % for one sale in the first half of 1980 and no dumping in the second half of 1980 or in the first four months of 1981; whereas for Filtrol the comparisons showed a weighted average dumping margin of 8·1 % in 1980 and 6·8 % in the first four months of 1981;

Whereas, with regard to the injury caused to the Community industry, the evidence available to the Commission shows that imports into the Community of fluid cracking catalysts from the United States of America increased from 113 tonnes in 1978 to 317 tonnes in 1979 to 529 tonnes in 1980 and to 770 tonnes in the first four months of 1981;

Whereas the market share of the United States has thus increased from 0·5 % in 1978 to approximately 8 % in the first four months of 1981;

Whereas the prices at which the dumped imports were sold and offered for sale in the Community during the investigation period exercised a depressive effect on the prices of the Community producers with a consequent negative effect on their profitability;

Whereas the Commission has considered whether injury has been caused by other factors such as competition between Community producers and overcapacity in the Community industry; whereas, however, the substantial increase in dumped imports and the prices at which they were offered for sale in the Community led the Commission to determine that the dumped imports of fluid cracking catalysts originating in the United States of America, taken in isolation, have caused material injury to the Community industry concerned;

Whereas, after being informed of the main findings of the investigation, Grace GmbH, on behalf of itself, Grace Italiana SpA, the Davison Chemical Division of W. R. Grace and Co. and any other affiliates of Grace GmbH which may sell fluid cracking catalysts in the Community has offered undertakings which would prevent a recurrence of injury to Community producers;

Whereas the Commission considers these undertakings to be acceptable;

Whereas, with regard to the two other exporters, no dumping has been found for Engelhard since the first half of 1980 and the Filtrol Corporation exports small quantities to the Community for testing purposes only and has indicated to the Commission that it does not intend to export fluid cracking catalysts to the Community in commercial quantities;

Whereas, therefore, it is considered that the proceeding may also be terminated in respect of these two exporters,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission hereby accepts the undertakings offered by Grace GmbH, on behalf of itself, Grace Italiana SpA, the Davison Chemical Division of W. R. Grace and Co. and any other affiliates of Grace GmbH which may sell fluid cracking catalysts in the Community, in connection with the anti-dumping proceeding concerning imports of fluid cracking catalysts originating in the United States of America.

Article 2

The anti-dumping proceeding concerning imports of fluid cracking catalysts originating in the United States of America is hereby terminated.

Done at Brussels, 14 January 1982.

For the Commission

Étienne DAVIGNON

Vice-President